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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,132	12/05/2003	Youichi Okubo	CONDA.00015	8997
22858	7590	02/10/2005	EXAMINER	
CARSTENS YEE & CAHOON, LLP P O BOX 802334 DALLAS, TX 75380			MILLER, TAKISHA S	
			ART UNIT	PAPER NUMBER
			2855	

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary	Application No.	Applicant(s)	
	10/729,132	OKUBO ET AL.	
	Examiner	Art Unit	
	Takisha Miller	2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/15/04 & 1/12/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1, 2, 5-9 and 12-14 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1,2,4-7 and 9-11 of copending Application No. 10/729,067. Although the conflicting claims are not identical, they are not patentably distinct from each other because each of the claimed elements in the claimed combinations are found in the indicated copending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 5-10 and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Achterholt (5,040,561).

a. With respect to claims 1,2,8 and 12, Achterholt teaches a transmitter comprising a pressure sensor that has a diaphragm (40) exposed to gas, wherein the transmitter transmits pressure data detected by the pressure sensor, the transmitter comprising a power supply circuit (26) for supplying electricity to the transmitter (Col. 3, lines 5-8), a metallic material (41) covering the diaphragm (40)(Col.5, lines 1-5) and a connecting member (27/28), wherein the connecting member connects the power supply circuit (26) with the metallic material (41) (Fig.1)

b. With respect to claims 3 and 10, Achterholt teaches a transmitter wherein the connecting member (27/28) is a lead wire (Fig.1).

c. With respect to claims 5 and 8, Achterholt teaches the transmitter is provided in a tire of a vehicle, and wirelessly transmits pressure data representing a condition of the tire (Col. 4, lines 64-66).

Art Unit: 2855

- d. With respect to claims 6 and 12, Achterholt teaches a casing (20) that has an opening and accommodates the pressure sensor, a lid (30/31/32/35/37) for closing the opening of the casing (20)(Col.8, lines 53-62) and a conductor (42) provided on the lid (Fig.1), wherein when the opening of the casing is closed with the lid, the metallic material (41) is connected to the power supply circuit (26) through the conductor (42)(Col. 8, lines 43-52)(Fig.1).
- e. With respect to claims 7 and 8, Achterholt teaches a receiver (Col. 3, lines 39-41), wherein the receiver receives data transmitted by the transmitter with a reception antenna (25) and processes the received data.
- f. With respect to claim 9, Achterholt teaches the power supply circuit (26) comprises a battery (Col. 3, lines 5-8).
- g. With respect to claim 14, Achterholt teaches the metallic material (41) is connected to either a power supply potential or a ground potential of the battery (Fig.1).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Achterholt (5,040,561) in view of Katou et al. (US2004/0085078)(hereinafter Katou). Achterholt teaches a diaphragm (40) but lacks teaching the diaphragm formed a ceramic

Art Unit: 2855

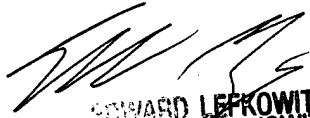
base. Katou teaches a diaphragm (42) formed on a ceramic base (40)(Fig.4). It would have been obvious to one of ordinary skill in the art to modify Achterholt to include a ceramic base as taught by Katou in order to effectively detect pressure using an art recognized equivalent diaphragm structure which is readily available in the art.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Takisha Miller whose telephone number is (571) 272-2184. The examiner can normally be reached on Monday - Friday (7:00 am - 3:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on (571) 272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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